

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 09-775V

Filed: April 5, 2012

TRACY JO HERMAN, parent of
LINCOLN KAUFFMAN, a minor,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Special Master Zane

Uncontested attorneys' fees and costs

Ronald C. Homer, Conway, Homer & Chin-Caplan, P.C., Boston, MA, for Petitioner;
Traci R. Patton, United States Dep't of Justice, Washington, D.C., for Respondent.

DECISION¹

ZANE, Special Master.

On April 4, 2012, the parties in the above-captioned case filed a Stipulation of Fact Concerning Attorneys' Fees and Costs (Stipulation) memorializing their agreement as to the appropriate amount of attorneys' fees and costs in this case. Pursuant to the stipulation of the parties, Petitioner requests a total award of \$44,020.30. In accordance with General Order #, Petitioner expended \$309.80 in Petitioner's personal litigation costs. In accordance with 42 U.S.C. §§ 300aa-15(b) and (e)(1), the undersigned hereby awards this amount to which Respondent does not object.

¹ The undersigned intends to post this decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the entire ruling will be available to the public. Id.

Petitioner, Tracy Jo Herman, on behalf of her son, Lincoln Kauffman, alleged that Lincoln sustained neurological injuries and a seizure disorder that were caused-in-fact by his receipt of the Diphtheria-Tetanus-acellular Pertussis (DTaP) vaccine on November 20, 2006, and which vaccine is contained in the Vaccine Injury Table, 42 C.F.R § 100.3(a). A decision awarding compensation based upon the parties' stipulation was entered on March 8, 2012.

Although Respondent did not concede the claim, the parties, nonetheless, settled the matter, and an award of compensation was made. The undersigned finds that the stipulated amount of \$44,020.30, in attorneys' fees and costs, is reasonable based on the stage at which this matter was settled. Based on the request's reasonableness and pursuant to Vaccine Rule 13, the undersigned **GRANTS** Petitioner's counsel's petition for fees, to which Respondent has acquiesced. The judgment shall reflect that Petitioner is awarded attorneys' fees and costs as follows:

in a check made payable jointly to Petitioner (Tracy Jo Herman, on behalf of Lincoln Kauffman) and Petitioner's counsel (Ronald C. Homer, of Conway, Homer & Chin-Caplan, P.C.), in the amount of \$44,020.30.

The court thanks the parties for their cooperative efforts in resolving this matter. In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment accordingly.²

IT IS SO ORDERED.

s/ Daria Zane
Daria J. Zane
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.